

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

WALTER K. MURRAY, ) CA 4:16-cv-03841\*-RBH  
 )  
PLAINTIFF, )  
 )  
 )  
 )  
 )  
vs. )  
 )  
 )  
 )  
SOUTH CAROLINA CENTRAL )  
RAILROAD COMPANY, LLC, )  
a domestic corporation, )  
 )  
DEFENDANT. )  
\_\_\_\_\_  
/

**PLAINTIFF'S MOTION TO EXCLUDE**  
**THE TESTIMONY OF DEFENDANT'S EXPERT WITNESS GARY P. WOLF**

COMES NOW the Plaintiff, WALTER K. MURRAY, by and through his undersigned counsel and hereby Moves to Exclude Defendant's Expert Witness. Gary P. Wolf.

In this Motion, Plaintiff seeks to exclude the testimony of Mr. Wolf pursuant to Rule 702 of the Federal Rules of Evidence, *Daubert v. Merrell Dow Pharms., Inc.*, and its progeny. Mr. Wolf's opinions are based on faulty, deficient and corrupted data that threatens to mislead jurors in important ways. Consequently, Mr. Wolf is not qualified to testify as an expert in this action on topics that rely on the faulty, deficient and corrupted event recorder data. Mr. Wolf's testimony lacks the reliability and relevance necessary to be admissible under *Daubert*, *Kumho*, and *Rule 702*.

This Motion is supported by the pleadings in this action, the memorandum of law filed herewith (and all exhibits thereto), the affidavit of Levoy Little, all applicable statutes and case authority, all completed discovery, the applicable Rules of Evidence, and such other evidence and authority as this Court may find acceptable.

WHEREFORE, Plaintiff respectfully requests that this Court grant this Motion to exclude the testimony and opinions of Mr. Wolf.

The undersigned counsel certifies that, prior to filing this Motion, counsel conferred or attempted to confer with opposing counsel and attempted in good faith to resolve the matter contained in this Motion pursuant to Local Civil Rule 7.02.

Respectfully submitted, this 29<sup>th</sup> day of December, 2017.

HITE & STONE

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